

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

JIMMY LEROY RAMSEYER,

Petitioner,

v.

PAT GLEBE,

Respondent.

CASE NO. C12-5317 BHS-JRC

ORDER DENYING PETITIONER'S  
MOTION FOR APPOINTMENT OF  
COUNSEL

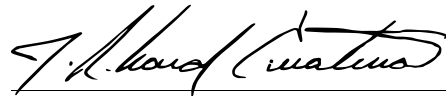
The District Court has referred this petition for a writ of habeas corpus to United States Magistrate Judge, J. Richard Creatura. The authority for the referral is 28 U.S.C. § 636 (b) (1) (A) and (B), and local Magistrate Judge Rules MJR3 and MJR4. Petitioner seeks relief from a state conviction.

Respondent has filed a motion asking that the Court dismiss or transfer this petition as a second or successive petition (ECF No. 14) Petitioner has responded and also asks that the Court appoint counsel to represent him (ECF No. 16 and 17). Respondent opposes appointment of counsel (ECF No. 19).

1       Petitioner has no right to have counsel appointed in cases brought under 28 U.S.C. § 2254  
2 because the action is civil, not criminal, in nature. *Brown v. Vasquez*, 952 F.2d 1164, 1168 (9th  
3 Cir. 1991) (citing *McCleskey v. Zant*, 499 U.S. 467, 495 (1991)); see *Ortiz v. Stewart*, 149 F.3d  
4 923, 939 (9th Cir. 1998) (“There is simply no constitutional right to an attorney in a state post-  
5 conviction proceeding.”); see also *Terrovona v. Kincheloe*, 852 F.2d 424, 429 (9th Cir. 1988);  
6 and Rule 8(c) of the Rules Governing Section 2254 Cases in the United States District Courts.”

7       This Court must decide if the petition is second or successive. The parties have briefed  
8 that issue. The Court does not find that appointment of counsel is necessary at this point in the  
9 action. Further, a motion for appointment of counsel should address petitioner’s likelihood of  
10 success on the merits. *Weygandt v. Look*, 518 F.2d 952, 954 (9th Cir. 1983). Petitioner makes no  
11 showing regarding success on the merits. The motion for appointment of counsel is DENIED.

12       Dated this 29<sup>th</sup> day of August, 2012.

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15       J. Richard Creatura  
16       United States Magistrate Judge  
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